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Attorneys for United States of America

**FILED**

DISTRICT COURT OF GUAM

OCT 12 2005

MARY L.M. MORAN  
CLERK OF COURT

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF GUAM**

10 UNITED STATES OF AMERICA, )  
11 )  
12 Plaintiff, )

13 vs. )

14 EDWARD DONALD FEELEY, )  
15 Defendant. )

CRIMINAL CASE NO. **05-00073**

**PLEA AGREEMENT**

16 Pursuant to Rule 11(c)(1)(A), the United States and the defendant, EDWARD DONALD  
17 FEELEY, enter into the following plea agreement:

18 1. The defendant agrees to waive indictment and plead guilty to an Information charging  
19 him with one count of Possession of Child Pornography in violation of Title 18, United States  
20 Code, § 2252A(a)(5)(B).

21 2. The United State agrees to dismiss the superseding indictment against the defendant  
22 at the time of sentencing. The United States agrees not to prosecute defendant for any other non-  
23 violent offenses which were committed in the Districts of Guam or the Northern Mariana Islands  
24 (NMI) which defendant reveals to Federal authorities during his cooperation with the United  
25 States. This agreement is limited to crimes committed by defendant in the Districts of Guam or  
26 the NMI.

27 3(a). The defendant, EDWARD DONALD FEELEY, understands that the maximum  
28 sentence for Possessing Child Pornography is ten (10) years incarceration, a \$250,000 fine, and a

1 \$100 special assessment fee, which must be paid at the time of sentencing. Any sentence  
2 imposed may include a term of not more than three (3) years supervised release in addition to  
3 such terms of imprisonment. Defendant understands that if he violates a condition of supervised  
4 release at any time prior to the expiration of such term, the court may revoke the term of  
5 supervised release and sentence him up to an additional two (2) years of incarceration pursuant to  
6 18 U.S.C. § 3583(e)(3).

7 (b) If defendant is sentenced to pay a fine and is financially unable to immediately pay  
8 the fine in full, defendant agrees to make a full disclosure of his financial status to the United  
9 States Attorney's Office by completing a Financial Disclosure Form (OBD-500) for purpose of  
10 fixing a monthly payment schedule. Defendant understands that, by law, interest accrues on any  
11 remaining balance of the debt.

12 4. The defendant understands that to establish a violation of Possession of Child  
13 Pornography as charged pursuant to 18 U.S.C. § 2252A(a)(5)(B), the government must prove  
14 each of the following elements beyond a reasonable doubt:

15 First: that the defendant knowingly possessed a computer hard drive containing  
16 visual depictions of child pornography that had been mailed, shipped, or  
transported in interstate or foreign commerce by any means, including a computer;

17 Second: that the production of said visual depiction involved the use of a minor  
18 engaging in sexually explicit conduct;

19 Third: that the defendant knew that such visual depiction was of sexually explicit  
conduct; and

20 Fourth: that the defendant knew that at least one of the persons engaged in sexually  
explicit conduct in such visual depiction was a minor.

21 5. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
22 defendant also understands that the facts he stipulates to herein will be used in calculating the  
23 applicable guidelines level. The government and the defendant stipulate to the following facts:

24 (a) The defendant was born February 9, 1957, and is a citizen of the United States.

25 (b) In April 2004, defendant was employed as a special education teacher for the  
26 Department of Education, Government of Guam. On April 14, 2004, he was placed on  
27 administrative leave after the defendant's fourteen year old student and foster child, was found to  
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1 be in possession of a computer disk containing child pornography. The child informed the  
2 school and Guam Child Protective Services that the contents of the disk were from a hard drive  
3 file stored on the defendant's home computer. The defendant acknowledges that between April  
4 1999 and April 2004 he knowingly possessed on his computer's hard drive images of child  
5 pornography. These items of child pornography had been transported in interstate and foreign  
6 commerce by computer and had been produced using minors engaging in sexually explicit  
7 conduct. At the time defendant possessed these items he knew they were images of minors  
8 engaged in sexually explicit conduct such as sexual intercourse involving minors, bestiality  
9 involving minors, and lascivious exhibitions of the genitals and pubic area of minors.

10 6. The defendant understands that notwithstanding any agreement of the parties, the  
11 United States Probation Office will make an independent application of the Sentencing  
12 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
13 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
14 not a basis to withdraw his guilty plea.

15 7. The government agrees that the defendant has assisted authorities in the investigation  
16 and prosecution of his own misconduct by timely notifying authorities of his intention to enter a  
17 plea of guilty, thereby permitting the government to avoid preparing for trial and the government  
18 and the Court to allocate their resources efficiently, and that in the event the defendant qualifies  
19 for a decrease under U.S.S.G. §3E1.1(a), the government will move the Court to decrease the  
20 offense level by one (1) additional level under U.S.S.G. §3E1.1(b).

21 8. The defendant understands and agrees that if he should breach this plea agreement, he  
22 will be fully subject to criminal prosecution for other crimes including the counts which were to  
23 be dismissed. In any such prosecution, the prosecuting authorities, whether Federal, State, or  
24 Local, shall be free to use against him, without limitation, any and all information, in whatever  
25 form, that he has provided pursuant to this plea agreement or otherwise; defendant shall not  
26 assert any claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules  
27 of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other provision of law,  
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1 to attempt to bar such use of the information.

2 9. In exchange for the government's concessions in this plea agreement, the defendant  
3 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
4 the sentence imposed in this case. The defendant understands and agrees that the government  
5 has bargained for a criminal conviction arising from his criminal conduct. If at any time  
6 defendant's guilty plea or conviction is rejected, withdrawn, vacated or reversed, for whatever  
7 reason, or is rendered invalid for any reason, or if any change of law renders the conduct for  
8 which he was convicted to be non-criminal, defendant agrees that he will enter a guilty plea to  
9 another charge encompassing the same or similar conduct. In such event, defendant waives any  
10 objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or  
11 constitutional restrictions as to the time of bringing such charges.

12 10. The defendant acknowledges that he has been advised of his rights as set forth below  
13 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
14 had sufficient opportunity to reflect upon, and understands the following:

15 (a) The nature and elements of the charge and the maximum possible penalty provided  
16 by law;

17 (b) His right to be represented by an attorney;

18 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
19 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
20 and the right not to be compelled to incriminate himself, that is, the right not to testify;

21 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
22 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
23 up, the right to a trial;

24 (e) That, upon entry of a plea of guilty, or thereafter, the Court may ask his questions  
25 about the offenses to which he has pled, under oath, and that if he answers these questions under  
26 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
27 statement if an answer is untrue;

1 (f) That he agrees that the plea agreement is voluntary and not a result of any force,  
2 threats or promises apart from this plea agreement;


3 (g) The defendant is satisfied with the representation of his lawyer and feels that his  
4 lawyer has done everything possible for his defense.

5 11. This Plea Agreement states the complete and only Agreement between the United  
6 States Attorney for the District of Guam and the Northern Mariana Islands and the defendant,  
7 supersedes all prior understandings, if any, whether written or oral, and cannot be modified other  
8 than by a writing that is signed by all parties or is on the record in Court. No other promises or  
9 inducements have been or will be made to the defendant in connection with this case, nor have  
10 any predictions or threats been made in connection with this plea.

11  
12 DATED: OCT 12 2005

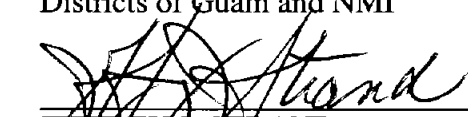
  
EDWARD DONALD FEELEY  
Defendant

13  
14 DATED: OCT 12 2005

  
HOWARD TRAPP  
Attorney for Defendant

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17 LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

18  
19 DATED: 10/12/05

  
JEFFREY J. STRAND  
Assistant U.S. Attorney

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21  
22 DATED: 10.12.05

  
RUSSELL C. STODDARD  
First Assistant U.S. Attorney